

Battin and Cousin's Case.

William Battin, Esq; } Appellant.

John Cousins, a }
Minor by his } Appellee.
Guardians, }

Elizabeth Binyon seiz'd in Fee of divers *Negroe* Slaves in the Island of *Barbadoes*, intermarried with one *John Cousins* of the said Island, who, together by their Deed Poll, Bargain'd and Sold the said *Negroe* Slaves, in order to fix the Inheritance in the said *John Cousins*; but the said *Elizabeth* was not privately Examined by a Magistrate, nor the Acknowledgment of her free and voluntary Consent endorst on the said Deed, as is necessarily required by a Statute of that Island to the passing any Estate of Inheritance out of a *Feme Covert*.

Wherefore the Right to the said *Negroes* not passing from the said *Elizabeth* by the aforesaid Deed, upon her Death, without Issue, descended to *William Battin*, Esq; the now Appellant, as Cousin and Heir to the said *Elizabeth*, who thereupon commenc'd his Suit for recovery of the said *Negroes*.

But his Proceedings were stopt by Injunction out of *Chancery*, upon the Complaint of the now Appellee, Son and Heir to the aforesaid *John Cousins*, praying that the aforesaid Deed might by Sentence of that Court be Decreed Valid, notwithstanding the said Defects.

To which Bill of Complaint the now Appellant demurr'd in Law, for that the Endorsing such Acknowledgment is Matter of Substance, and the Omission thereof no way relievable in Equity; but upon Argument of the said Demurrer, the Court of *Chancery*, contrary to the aforesaid Statute, over-ruled the same, from which order the said *William Battin*, Esq; appeal'd to Her Majesty in Council, who has been graciously pleas'd to refer the same to the Right Honourable the Lords of the Committee of Appeals.

Wherefore it is most humbly hoped their Lordships will in their great Wisdom report the said Demurrer Good and Sufficient, that the Appellee's Bill be dismiss, the Injunction dissolved, and the Appellant allow'd his reasonable Costs and Charges by him, in the Prosecution of the said Appeal sustain'd.